



Commonwealth of Massachusetts State Ethics Commission

One Ashburton Place, Room 619, Boston, MA, 02108
phone: 617-727-0060, fax: 617-723-5851



SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 561

IN THE MATTER OF ROGER W. HOWLETT

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Roger W. Howlett ("Howlett") pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On February 14, 1996, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Howlett. The Commission has concluded its inquiry and, on January 15, 1997, found reasonable cause to believe that Howlett violated G.L. c. 268A.

The Commission and Howlett now agree to the following findings of fact and conclusions of law:

1. At all relevant times Howlett was an elected assessor for the town of Raynham. As such, Howlett was a municipal employee as that term is defined in G.L. c. 268A, § 1(g).

2. In July 1995 the Raynham Assessor's office posted a position for a full-time senior clerk in the assessor's office.

3. At that time the senior clerk position paid an hourly wage of approximately \$10.00, with benefits, but no overtime.

4. The assessors received ten applications for the position, and from those an assessor and the assistant assessor selected the four candidates to interview.^{1/} One of the four candidates was Lisa McDonald ("McDonald"), Howlett's daughter.

5. Before interviewing the applicants at an assessor's meeting on July 25, 1995, Howlett, the other two assessors and the assistant to the assessors discussed questions to ask the candidates (during their interviews). Howlett participated in this discussion and suggested some of the questions which the candidates were asked.

6. At the assessor's meeting on July 25, 1995, each of the four candidates met individually with Howlett, the other two assessors and the assistant.

7. Howlett sat in on each interview, including the interview of his daughter, McDonald. Most of the questions were asked by one of the other assessors, but, Howlett asked a few questions of some of the candidates. (Howlett, however, did not ask his daughter any questions.)

8. According to the Assessors' minutes of July 25, 1995, "Mr. Lynn, Mr. Ritchie, and Maureen voted for Lisa McDonald. Mr. Howlett abstained from voting."^{2/}

9. On July 26, 1995, McDonald began working at the assessor's office as the senior clerk. The nine

applicants who were not hired were sent letters signed by Howlett as chairman of the board of assessors, informing them that the position had been filled.^{3/}

10. Section 19 of G.L. c. 268A, except as permitted by paragraph (b) of that section, prohibits a municipal employee from participating as such an employee in a particular matter in which to his knowledge he or an immediate family member^{4/} has a financial interest. None of the exceptions contained in §19(b) apply in this case.

11. The determination to hire someone for the full-time senior clerk position was a particular matter.^{5/}

12. As set forth above, Howlett participated^{6/} as an assessor in the hiring determination by proposing questions and participating in the interviews.

13. As an applicant for the senior clerk position, McDonald had a financial interest in the appointment to this position. Howlett knew of his daughter's financial interest at the time he participated in the hiring process.

14. Accordingly, by participating in the hiring process for the position, as set forth above, Howlett participated as an assessor in a particular matter in which he knew that an immediate family member had a financial interest, thereby violating G.L. c. 268A, §19.^{7/}

15. Howlett cooperated with the Commission's investigation.

In view of the foregoing violations of G.L. c. 268A by Howlett, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings on the basis of the following terms and conditions agreed to by Howlett:^{8/}

(1) that Howlett pay to the Commission the sum of five hundred dollars (\$500.00) as a civil penalty for violating G.L. c. 268A, §19 as stated above;

(2) that Howlett will act in conformance with the requirements of G.L. c. 268A, §19 in the future; and

(3) that Howlett waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: January 22, 1997

^{1/}Howlett did not participate in deciding whom to interview.

^{2/}Howlett did not participate in the vote because he thought it would be a conflict of interest to vote to hire his daughter; he did not think it would be a conflict of interest to participate in the interviews or help formulate the interview questions.

^{3/}It is customary practice for the chairman to sign all correspondence.

^{4/}"Immediate family," the employee and his spouse, and their parents, children, brothers and sisters. G.L. c. 268A, §1(e). As his daughter, McDonald is a member of Howlett's immediate family.

^{5/}"Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

^{6/}"Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c.

268A, §1(j).

⁷/See, e.g., *Commission Advisory No. 11. Nepotism*, page 2. “Personal and substantial participation involves any significant involvement in the hiring process. For example, interviewing or creating a test for applicants, one of whom is a family members, would violate the law.”

⁸/On November 29, 1996, McDonald resigned from the senior clerk’s position.